



City of Loma Linda Official Report

Robert Ziprick, Chairman
Stan Brauer, Vice Chairman
Robert Christman, Board Member
Floyd Petersen, Board Member
Karen Hansberger, Board Member

CRA AGENDA: August 24, 2004
TO: Agency Board Members
VIA: Dennis R. Halloway, Executive Director
FROM: Pamela Byrnes-O'Camb, Secretary
SUBJECT: CRA Bill #R-2004-17 – Repealing Resolution No. 219 and rescinding the Real Property Exchange Agreement between the Loma Linda Redevelopment Agency and Shirou Kunihiro and Satsuki Kunihiro, as Trustees of that certain Revocable Declaration of Trust known as The Shirou and Satsuki Kunihiro Revocable Trust [Secretary]

RECOMMENDATION

It is recommended that the Agency Board adopt CRA Bill #R-2004-17.

BACKGROUND

The Agency Board authorized acquisition of properties within the Redevelopment Project Area, with emphasis on the North Central Neighborhood in order to facilitate the Agency's affordable housing goals. Poplar Street lies within the North Central Neighborhood.

In that effort, negotiations resulted in a property exchange proposal that would not only facilitate the Agency's affordable housing goals within the North Central Neighborhood and reduce the Agency's affordable housing deficit, but would provide street frontage for the alignment of Rhonda Street in a future development.

ANALYSIS

The Real Property Exchange Agreement was approved on March 9, 2004 via Resolution No. 219. Escrow was to close by May 6, 2004. To date, a signed agreement has not been received.

ENVIRONMENTAL

Not applicable.

FINANCIAL IMPACT

None.

Attachments: CRA Bill #R-2004-17
Agreement
Resolution 219

RESOLUTION NO. _____

A RESOLUTION OF THE LOMA LINDA REDEVELOPMENT AGENCY
RESCINDING AND SETTING ASIDE THE PRIOR APPROVAL OF AN
AGREEMENT FOR THE EXCHANGE OF PROPERTY WITH THE
KUNIHIRA GROUP

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan (the "Redevelopment Plan") for the Loma Linda Redevelopment Project (the "Redevelopment Project") and the merged redevelopment project area ("Project Area") established thereby; and

WHEREAS, in connection with carrying out and implementation of such Redevelopment Plan the Agency negotiated terms for the exchange of certain property owned by the Agency for certain property owned by a private party, as more fully set forth in that certain form of "Agreement for the Exchange of Property and Joint Escrow Instructions" as submitted to the Agency and acted upon by the Agency on March 9, 2004 (the "Offer") with the private parties named therein (collectively, "The Kunihiro Group"); and

WHEREAS, at the time the Agency acted on the Offer, the Offer had not been executed by The Kunihiro Group; and

WHEREAS, under the Offer, by certain times set forth: (i) The Kunihiro Group was to convey certain property located at 10869 Poplar Street, APN 0283-121-06-6-000, and more particularly identified in the Offer as the "Kunihiro Parcel" to the Agency, and, in consideration thereof (ii) the Agency agreed to convey certain property identified in the Offer as the "Agency Parcel" to The Kunihiro Group, all as more particularly set forth in the Offer; and

WHEREAS, notwithstanding several contacts of The Kunihiro Group by Agency staff, The Kunihiro Group has not executed the Offer and more than a reasonable period of time has elapsed for such purpose; and

WHEREAS, the failure of The Kunihiro Group to execute the Offer, which would have resulted in a binding agreement, is frustrating the implementation of the Redevelopment Plan; and

WHEREAS, Agency staff is concerned that the value of the Agency Parcel has increased greater than any increases in value of the Kunihiro Parcel.

NOW, THEREFORE, BE IT RESOLVED by the Loma Linda Redevelopment Agency as follows:

1. The Agency hereby rescinds, sets aside and repudiates its approval of the Offer. Effective immediately upon the adoption of this resolution by the Agency, the Offer shall have no further force or effect.

2. The Agency Secretary shall certify to the adoption of this Resolution.

Resolution No.

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The foregoing Resolution is hereby approved this 24th day of August 2004 by the following vote.

Ayes:

Noes:

Abstain:

Absent:

Robert H. Ziprick, Chairman

ATTEST:

Pamela Byrnes-O'Camb, Secretary

REAL PROPERTY EXCHANGE AGREEMENT

THIS REAL PROPERTY EXCHANGE AGREEMENT (the "Agreement") is entered into as of March 9, 2004, by and between the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body, corporate and politic (the "Agency"), and **SHIROU KUNIHIRA** and **SATSUKI KUNIHIRA**, as Trustees of that certain Revocable Declaration of Trust, known as **THE SHIROU AND SATSUKI KUNIHIRA REVOCABLE TRUST**, executed March 27, 1989; and **TERRI TSUYAKO KUNIHIRA**, a married woman (collectively, the "Kunihira Group") for the exchange of certain real property owned by the Kunihira Group for certain real property owned by the Agency, and is made on the basis of the following facts, intentions and understandings.

RECITALS

A. The Kunihira Group owns an approximately a 0.94-acre parcel of real property, APN 0283-121-06-0000, commonly known as 10806 Poplar Street in the City of Loma Linda, California (the "Kunihira Parcel"), which is improved with one single-family residence. The Kunihira Parcel is described in the "Legal Description of the Kunihira Parcel" attached hereto as Exhibit "A," which is attached hereto and incorporated herein by reference.

B. Agency owns that certain approximately 2.5-acre parcel of real property located in the City of Loma Linda, California and described in the "Legal Description of the Agency Parcel" attached hereto as Exhibit "B," which is attached hereto and incorporated herein by reference.

C. The Kunihira Group desires to exchange the Kunihira Parcel for the Agency Parcel and the Agency desires to exchange the Agency Parcel for the Kunihira Parcel.

D. Each of the parties has determined to its satisfaction that the Agency Parcel and the Kunihira Parcel are of equal value.

NOW THEREFORE, for good and valuable consideration, receipt of which is acknowledged, the parties agree as follows:

1. **Exchange of Property.** Subject to the prior satisfaction of the Conditions to Closing set forth in Section 4 hereof, the Agency shall convey the Agency Parcel to the Kunihira Group (the "Agency Conveyance"), and the Kunihira Group shall simultaneously convey the Kunihira Parcel to the Agency (the "Kunihira Conveyance"). The Agency Conveyance and the Kunihira Conveyance collectively constitute the "Exchange." The parties agree that the Agency Parcel and the Kunihira Parcel are of approximately equal value, and accordingly no cash payment shall be due upon the Exchange.

2. **Escrow.** Within ten (10) days after the execution of this Agreement by Agency, the parties shall open escrow for the Exchange (the "Escrow") with First American Title (the "Escrow Agent").

2.1. **Escrow Fees, Charges and Costs.** Agency shall pay the following costs: (i) one half of the Escrow Agent's fee, (ii) the cost of any documentary transfer taxes on the Agency's conveyance of the Agency Parcel, (iii) fees for recording and filing all documents required by this Agreement in connection with the Agency's conveyance of the Agency Parcel, and (iv) the cost of the Agency Parcel Title Policy, as provided in Section 4.2(d) hereof. The Kunihiro Group shall pay the following costs: (i) one half of Escrow Agent's fee, (ii) the cost of any documentary transfer taxes on the Kunihiro Group's conveyance of the Kunihiro Parcel, (iii) fees for recording and filing all documents required by this Agreement in connection with the Kunihiro Group's grant deed as to the Kunihiro Parcel, and (iv) the cost of the Kunihiro Title Policy, as provided in Section 4.1 (d) hereof. Agency and the Kunihiro Group agree to pay, in accordance with the usual and customary manner in San Bernardino County, all other fees, charges, and costs not hereinabove specified which arise from Escrow.

2.2. **Escrow Instructions.** This Agreement constitutes the joint Escrow instructions of Agency and the Kunihiro Group, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this Escrow for the Exchange (the "Closing") in the shortest possible time. By noon, the last business day before Closing, the Kunihiro Group and Agency shall deposit the documents as required by Sections 5 and 6 hereof, respectively, with Escrow Agent. Agency and the Kunihiro Group agree to deposit with Escrow Agent any additional instruments as may be reasonably necessary to complete the Exchange. Insurance policies for fire or casualty are not to be transferred, and each party will cancel its own policies after the Closing. All funds received in this Escrow shall be deposited with other Escrow funds in a general Escrow account(s) and may be transferred to any other such Escrow trust account in any state or national bank doing business in the State of California. All disbursements shall be made by check from such account. However, if Escrow does not close within two (2) business days from deposit of any funds, the funds shall be deposited into an interest bearing account with such interest accruing to the benefit of the Agency.

If in the opinion of either party it is necessary or convenient in order to accomplish the Closing, the parties shall sign supplemental Escrow instructions as may be required; provided that if there is any inconsistency between this Agreement and the supplemental Escrow instructions, then the provisions of this Agreement shall control. The parties agree to execute such other and further documents as may be necessary, helpful or appropriate to effectuate the provisions of this Agreement. The Closing shall take place when the conditions of Closing as set forth in Sections 4.1 and 4.2 have been satisfied.

2.3. **Tax Adjustment Procedure.** Escrow Agent is authorized and is instructed to comply with the following:

(a) Pay and charge Agency for any unpaid delinquent taxes and/or penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the Agency Parcel; and

(b) Pay and charge the Kunihiro Group any unpaid delinquent taxes and/or penalties and interest thereon, and for any delinquent or nondelinquent assessments or bonds against the Kunihiro Parcel; and

(c) Agency shall be charged for all taxes against the Agency Parcel which will be due at the Closing and Escrow shall prorate taxes consistent with the requirements of the San Bernardino County Tax Collector's office; and

(d) The Kunihiro Group shall be charged for all taxes against the Kunihiro Parcel which will be due at the Closing and Escrow shall prorate taxes consistent with the requirements of the San Bernardino County Tax Collector's office; and

2.4. **Authority of Escrow Agent.** Escrow Agent is authorized to, and shall:

(a) Pay and charge the Kunihiro Group for any amount necessary to place title of the Kunihiro Parcel in the condition necessary to satisfy Section 4.1 of this Agreement; and

(b) Pay and charge Agency for any amount necessary to place title of the Agency Parcel in the condition necessary to satisfy Section 4.2 of this Agreement; and

(c) Pay and charge the Kunihiro Group and Agency for any Escrow fees, charges, and costs payable under this Section 2 of this Agreement; and

(d) Disburse funds and deliver and record the Agency's grant deed as to the Agency Parcel and the Kunihiro Group's grant deed as to the Kunihiro Parcel when conditions of this Escrow have been fulfilled by Agency and the Kunihiro Group; and

(e) Do such other actions as necessary, including obtaining policies of title insurance, to fulfill its obligations under this Agreement; and

(f) If the provisions of FIRPTA apply to the Exchange, and unless Agency or the Kunihiro Group are not "foreign persons" or an exemption applies, the Escrow Agent shall deduct and withhold from Agency's proceeds in connection with the Agency's grant deed as to the Agency Parcel, or the Kunihiro Group's proceeds in connection with the Kunihiro Group's grant deed as to the Kunihiro Parcel, ten percent (10%) of the gross sales price and shall otherwise comply with all applicable provisions of FIRPTA. Agency and the Kunihiro Group agree to execute and deliver the FIRPTA Certificates which are attached hereto as Exhibit E; and

(g) Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

All time limits within which any matter herein specified is to be performed may be extended, but only by mutual agreement of the parties hereto, and by amendment of this Agreement. Any amendment of, or supplement to, this Agreement must be in writing, and signed by both parties hereto.

2.5. **Termination of Escrow.** If Escrow is not in condition to close by May 6, 2004, (the "Outside Date"), then either party which has fully performed under this Agreement may, in writing, demand the return of money or property and terminate this Agreement. If neither party has fully complied with the provisions of Escrow, no demand for return of documents shall be recognized and this Agreement shall not terminate until five (5)

days after Escrow Agent shall have delivered copies of such demand to all other parties at the respective addresses shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. Termination of this Agreement shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible.

3. **Closing.** The Exchange shall close as soon as possible after the satisfaction of the Conditions to Closing set forth in Section 4, but in any event not later than the Outside Date. The Closing shall occur at the office of the Escrow Agent (as hereinafter defined) within San Bernardino County at a time and place reasonably agreed on by the parties. The Closing shall mean the time and day the Agency's grant deed as to the Agency Parcel and the Kunihiro Group's grant deed as to the Kunihiro Parcel are filed for record with the San Bernardino County Recorder. The "Closing Date" shall mean the day on which the Closing occurs.

4. **Conditions to Closing.**

4.1. **Agency's Conditions of Closing.** Agency's obligation to proceed with the Exchange is subject to the fulfillment or waiver by Agency of the conditions precedent (a) through (f), inclusive, described below ("Agency's Conditions Precedent"), which are solely for the benefit of Agency, which shall be fulfilled or waived prior to the Closing or by such other time periods provided for therein:

(a) **Grant Deed.** The Kunihiro Group shall convey to Agency the Kunihiro Parcel upon the Closing by execution, acknowledgement and delivery into Escrow of the Kunihiro Parcel Grant Deed in the form attached hereto as Exhibit "C" and incorporated herein.

(b) **Condition of Title.** Agency shall review and approve the condition of title of the Kunihiro Parcel, as hereinafter provided.

(i) **Report.** Within fifteen (15) days after the date of this Agreement, the Kunihiro Group shall cause First American Title, or another title company mutually agreeable to both parties (the "Title Company"), to deliver to Agency a standard CLTA preliminary title report (the "Title Report") with respect to the title to the Kunihiro Parcel, or an updated report as to title to the Kunihiro Parcel, together with legible copies of the exceptions ("Exceptions") set forth in the Title Report.

(ii) **Written Notice.** Agency shall have ten (10) days from its receipt of the Title Report to give written notice to the Kunihiro Group and Escrow Holder of Agency's approval or disapproval of any of such Exceptions which relate to the Kunihiro Parcel; provided that the Agency hereby approves that the Kunihiro Parcel is subject to the Redevelopment Plan for the Loma Linda Redevelopment Project, and the lien of nondelinquent property taxes and assessments. Agency's failure to give written disapproval of the Title Report within such time limit shall be deemed disapproval of the Title Report.

(iii) **Disapproval.** If Agency notifies the Kunihiro Group of its disapproval of any Exceptions in the Title Report, the Kunihiro Group shall have the right, but not the obligation, to remove any disapproved Exceptions within ten (10) business days after receiving written notice of Agency's disapproval or provide assurances satisfactory

to Agency that such Exception(s) will be removed on or before the Closing. If the Kunihiro Group cannot or does not elect to remove any of the disapproved Exceptions within that period, Agency shall have ten (10) business days after the expiration of such ten (10) business day period to either give the Kunihiro Group written notice that Agency elects to proceed with the Exchange subject to the disapproved Exceptions or to give the Kunihiro Group written notice that the Agency elects to terminate this Agreement.

(iv) **Condition of Title.** The Exceptions to title approved by Agency as provided herein shall hereinafter be referred to as the "Condition of Title."

(v) **Later Changes to Condition of Title.** Agency shall have the right to approve or disapprove any Exceptions reported by the Title Company after Agency has approved the Condition of Title for the Kunihiro Parcel (which are not created by Agency). The Kunihiro Group shall not voluntarily create any new exceptions to title following the date of this Agreement.

(c) **Inspections and Studies.** The Agency shall be entitled to conduct whatever inspections, investigations, tests and studies concerning the Kunihiro Parcel which it deems necessary or appropriate, in its sole and absolute discretion, to evaluate the condition of the Kunihiro Parcel (the "Studies"). The cost of such Studies shall be borne by the Agency. Prior to the Closing Date, Agency, and its representatives, agents, employees, contractors and designees shall have the right of access to the Kunihiro Parcel at all reasonable times for the purpose of making necessary and appropriate inspections, tests, borings, samplings, surveys, and exercising Agency's other rights under this Agreement. Agency shall save and protect the Kunihiro Group against any claims resulting from such access or use of the Kunihiro Parcel undertaken pursuant to this Section, and such indemnity shall survive the Closing or termination of this Agreement. Prior to Closing, Agency shall have approved or disapproved, in Agency's sole discretion, the results of any and all Studies concerning the development, construction, alteration, rehabilitation, maintenance, use, operation or lease of the Kunihiro Parcel along with any architectural inspections, engineering tests, certificates of occupancy, economic feasibility studies, development restrictions, environmental impact studies, traffic and utilities circulation and mitigation studies and reports, and soils, hazardous materials, seismic and geologic reports with respect to the Kunihiro Parcel as Agency may elect to make or obtain.

(d) **Title Policy.** The Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to issue a title insurance policy ("Agency Title Policy") showing title to the Kunihiro Parcel vested of record in the name of the Agency, in fee simple, subject only to the Conditions of Title, any changes to the Condition of Title that Agency has approved or created and the standard printed exceptions of the Agency Title Policy. The Kunihiro Group shall be responsible for the cost of the Agency Title Policy. The Agency Title Policy shall be a CLTA policy, to be provided by and at the cost of the Kunihiro Group; provided that, at its election, the Agency may obtain an ALTA owner's extended coverage policy (in which event Agency shall be responsible for the difference in premium above that for a CLTA policy and any additional costs, such as surveying costs, required in connection with the issuance of an ALTA policy).

(e) **FIRPTA Compliance.** Prior to the Closing, the Kunihiro Group shall have executed and delivered to Escrow an affidavit of exemption from the Foreign Investment in Real Property Tax Act ("FIRPTA"), and any similar state act, in the form attached hereto as Exhibit "E-1" and incorporated herein.

(f) **No Default.** As of the Closing, the Kunihiro Group shall not be in default in any of its obligations under the terms of this Agreement and all representations and warranties of the Kunihiro Group contained herein shall be true and correct in all material respects.

4.2. **The Kunihiro Group's Conditions of Closing.** The Kunihiro Group's obligation to proceed with the Exchange is subject to the fulfillment or waiver by the Kunihiro Group of the conditions precedent (a) through (f), inclusive, described below ("the Kunihiro Group's Conditions Precedent"), which are solely for the benefit of the Kunihiro Group and which shall be fulfilled or waived prior to the Closing or by such other time periods provided for therein:

(a) **Grant Deed.** The Agency shall convey to the Kunihiro Group the Agency Parcel upon the Closing by execution, acknowledgement and delivery into Escrow of the Agency Parcel Grant Deed in the form attached hereto as Exhibit "D" and incorporated herein.

(b) **Condition of Title.** The Kunihiro Group shall review and approve the condition of title of the Agency Parcel, as hereinafter provided.

(i) **Report.** Within fifteen (15) days after the date of this Agreement, the Agency shall cause the Title Company to deliver to the Kunihiro Group a standard CLTA preliminary Title Report with respect to the title to the Agency Parcel, or an updated report as to title to the Agency Parcel, together with legible copies of the Exceptions set forth in the Title Report.

(ii) **Written Notice.** The Kunihiro Group shall have until the expiration of the Conditions Precedent Period within which to give written notice to the Agency and Escrow Holder of the Kunihiro Group's approval or disapproval of any of such Exceptions which relate to the Agency Parcel; provided that the Kunihiro Group hereby approves that the Agency Parcel is subject to the Redevelopment Plan for the Loma Linda Redevelopment Project, and the lien of nondelinquent property taxes and assessments. The Kunihiro Group's failure to give written disapproval of the Title Report within such time limit shall be deemed disapproval of the Title Report.

(iii) **Disapproval.** If the Kunihiro Group notifies the Agency of its disapproval of any Exceptions in the Title Report, the Agency shall have the right, but not the obligation, to remove any disapproved Exceptions within ten (10) business days after receiving written notice of the Kunihiro Group's disapproval or provide assurances satisfactory to the Kunihiro Group that such Exception(s) will be removed on or before the Closing. If the Agency cannot or does not elect to remove any of the disapproved Exceptions within that period, the Kunihiro Group shall have ten (10) business days after the expiration of such ten (10) business day period to either give the Agency written notice that the Kunihiro Group elects to proceed with the Exchange subject to the disapproved Exceptions or to give the Agency written notice that the Kunihiro Group elects to terminate this Agreement.

(iv) **Condition of Title.** The Exceptions to title approved by the Kunihiro Group as provided herein shall hereinafter be referred to as the "Condition of Title."

(v) **Later Changes to Condition of Title.** The Kunihiro Group shall have the right to approve or disapprove any Exceptions reported by the Title Company after the Kunihiro Group has approved the Condition of Title for the Agency Parcel

(which are not created by the Kunihiro Group). The Agency shall not voluntarily create any new exceptions to title following the date of this Agreement.

(c) **Inspections and Studies.** The Kunihiro Group shall be entitled to conduct whatever inspections, investigations, tests and studies concerning the Agency Parcel which it deems necessary or appropriate, in its sole and absolute discretion, to evaluate the condition of the Agency Parcel (the "Studies"). The cost of such Studies shall be borne by the Kunihiro Group. Prior to the Closing Date, the Kunihiro Group, and its representatives, agents, employees, contractors and designees shall have the right of access to the Agency Parcel at all reasonable times for the purpose of making necessary and appropriate inspections, tests, borings, samplings, surveys, and exercising Agency's other rights under this Agreement. The Kunihiro Group shall save and protect the Agency against any claims resulting from such access or use of the Agency Parcel undertaken pursuant to this Section, and such indemnity shall survive the Closing or termination of this Agreement. Prior to Closing, the Kunihiro Group shall have approved or disapproved, in the Kunihiro Group's sole discretion, the results of any and all Studies concerning the development, construction, alteration, rehabilitation, maintenance, use, operation or lease of the Agency Parcel along with any architectural inspections, engineering tests, certificates of occupancy, economic feasibility studies, development restrictions, environmental impact studies, traffic and utilities circulation and mitigation studies and reports, and soils, hazardous materials, seismic and geologic reports with respect to the Agency Parcel as the Kunihiro Group may elect to make or obtain.

(d) **Title Policy.** The Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to issue a modification to the existing owner's title insurance policy ("the Kunihiro Group Title Policy") showing title to the Agency Parcel vested of record in the name of the Kunihiro Group in fee simple subject only to the Conditions of Title, any changes to the Condition of Title that the Kunihiro Group has approved or created and the standard printed exceptions of the Kunihiro Group Title Policy. The Agency shall be responsible for the cost of the Kunihiro Group Title Policy (in which event the Kunihiro Group shall be responsible for the difference in premium above that for a CLTA policy and any additional costs, such as surveying costs, required in connection with the issuance of an ALTA policy).

(e) **FIRPTA Compliance.** Prior to the Closing, the Agency shall have executed and delivered to Escrow an affidavit of exemption from FIRPTA, and any similar state act, in the form attached hereto as Exhibit "E-2" and incorporated herein.

(f) **No Default.** As of the Closing, the Agency shall not be in default in any of its obligations under the terms of this Agreement and all representations and warranties of the Agency contained herein shall be true and correct in all material respects.

5. **The Kunihiro Group's Obligations.** The Kunihiro Group shall deliver to Escrow no later than one (1) business day before the anticipated Closing an executed and acknowledged Kunihiro Parcel Grant Deed, any fees to be paid by the Kunihiro Group, any deposits and a pro rata portion of monthly rent paid under the "Rental Agreement" (as described in subsection (b) of Section 7.2 hereof, a statement signed by Shirou Kunihiro affirming that he releases and assigns to Agency (effective as of the Closing) any and all interest he holds under such Rental Agreement, and an executed FIRPTA Certificate.

6. **Agency's Obligations.** Agency shall deliver to Escrow no later than one (1) business day before the anticipated Closing the certificate of acceptance to the Kunihiro

Parcel Grant Deed (Attachment "2" to Exhibit "C") signed by Agency's authorized representative, an executed and acknowledged Agency Parcel Grant Deed, any fees to be paid by the Agency, and an executed FIRPTA Certificate.

7. Representations and Warranties.

7.1. Agency Representations. Agency represents and warrants to the Kunihiro Group as follows:

(a) Agency has full right, power and lawful authority to convey its the Agency Parcel as provided herein; and

(b) There are no tenants or other persons who have a lawful interest in the Agency Parcel; and

(c) There are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Agency Parcel or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign; and

(d) There are no service contracts or other contracts affecting the Agency Parcel; and

(e) Until the Closing, Agency will not do anything which would impair Agency's title to the Agency Parcel; and

(f) Neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument which affects the Agency Parcel; and

(g) Agency is not a "foreign person" within the parameters of FIRPTA, or is exempt from the provisions of FIRPTA; and

(h) Until the Closing, Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 7.1 not to be true as of closing, immediately give written notice of such fact or condition to the Kunihiro Group.

7.2. Kunihiro Group Representations. The Kunihiro Group represents and warrants to Agency as follows:

(a) The Kunihiro Group has full right, power and lawful authority to convey the Kunihiro Parcel as provided herein; and

(b) There are no other persons who have a lawful interest in the Kunihiro Parcel, and no tenants or occupants other than Yesenia Ramirez, Maria Tappolla and their immediate family under that certain "Rental Agreement" by and between Shirou Kunihiro (as "Lessor") and Yesenia Ramirez and Maria Tappolla (as "Lessee"), dated as of January 1, 2004, a copy of which has been delivered by the Kunihiro Group to the agency, which Rental Agreement has not been amended, assigned or pledged; and

(c) There are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Kunihiro Parcel or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign; and

(d) There are no service contracts or other contracts affecting the Kunihiro Parcel; and

(e) Until the Closing, the Kunihiro Group will not do anything which would impair the Kunihiro Group's title to the Kunihiro Parcel; and

(f) Neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument which affects the Kunihiro Parcel; and

(g) The Kunihiro Group is not a "foreign person" within the parameters of FIRPTA, or is exempt from the provisions of FIRPTA; and

(h) Until the Closing, the Kunihiro Group shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 7.2 not to be true as of closing, immediately give written notice of such fact or condition to Agency.

The representations and warranties set forth in this Section 7 and Section 8 shall survive close of Escrow.

8. Condition of the Agency Parcel and the Kunihiro Parcel.

8.1. Hazardous Materials on the Agency Parcel. Agency represents that to the best of Agency's knowledge, Hazardous Materials (as defined in Section 8.6 hereof) were not used, generated, stored, released, discharged or disposed of on, under, in, or about the Agency Parcel or transported to or from the Agency Parcel during the period that the Agency has owned the Agency Parcel. Agency represents that neither Agency nor any other person or entity under the control of, or with the knowledge of the Agency will cause or permit the use, generation, storage, release, discharge, or disposal of any Hazardous Materials on, under, in, or about the Agency Parcel for the period from the date of this Agreement until the Closing. The Agency shall be responsible for the removal of all Hazardous Materials on the Agency Parcel which are in violation of Applicable Laws, if any, before the Exchange. To the best of Agency's knowledge, the Agency Parcel and its present use complies with all Applicable Laws (as defined in Section 8.6 hereof).

8.2. Hazardous Materials on the Kunihiro Parcel. The Kunihiro Group acknowledges that to the best of the Kunihiro Group's knowledge, Hazardous Materials were not used, generated, stored, released, discharged or disposed of on, under, in, or about the Kunihiro Parcel or transported to or from the Kunihiro Parcel during the period that the Kunihiro Group has owned the Kunihiro Parcel. The Kunihiro Group represents that neither the Kunihiro Group nor any other person or entity under the control of, or with the knowledge of the Kunihiro Group will cause or permit the use, generation, storage, release, discharge, or disposal of any Hazardous Materials on, under, in, or about the Kunihiro Parcel for the period from the date of this Agreement until the Closing. The Kunihiro Group shall be responsible for the removal of all Hazardous Materials on the Kunihiro Parcel which are in violation of Applicable Laws, if any, before the Exchange. To the best of the Kunihiro Group's knowledge, the Kunihiro Parcel and its present use complies with all Applicable Laws.

8.3. **Indemnity.** The Kunihiro Group agrees to indemnify, defend and hold Agency and the City of Loma Linda and their officers, employees, agents, representatives and volunteers harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon (i) the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Kunihiro Parcel during the period that the Kunihiro Group has owned the Kunihiro Parcel, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Kunihiro Parcel during the period that the Kunihiro Group has owned the Kunihiro Parcel. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death, tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. This indemnity extends only to liability created during the period that the Kunihiro Group has owned the Kunihiro Parcel. The Kunihiro Group shall not be responsible for acts or omissions to act past the Closing Date with respect to the Kunihiro Parcel.

8.4. **The Agency's Environmental Contingency.** The Closing of the Exchange pursuant to this Agreement is additionally contingent upon the Agency receiving satisfactory evidence, in the form of an environmental assessment report, from a licensed contractor who is acceptable to the Agency in its sole and absolute discretion and who shall be hired by the Agency, showing that there is no evidence of any Hazardous Materials in the soil or groundwater underlying the Kunihiro Parcel, or any other conditions which may affect the value of the Kunihiro Parcel. In the event the Agency does not elect to obtain such an environmental assessment report, the Agency is entitled to conduct such examination and testing as it or any other responsible governmental agency may require or request to determine the nature, source, scope, and extent of such Hazardous Materials. If a licensed contractor selected by the Agency determines that there are Hazardous Materials in, on or under the Kunihiro Parcel, including in the groundwater, in an amount which violates Applicable Laws, then the Agency may elect to: (i) terminate this Agreement, or (ii) consummate the Exchange, with a payment to be made by the Kunihiro Group at a sum to be agreed upon by the parties. Regardless of which option is selected by the Agency in the event Hazardous Materials are found in, on or under the Kunihiro Parcel, neither party waives or relinquishes any common law or statutory rights it or they may have against one another or third persons arising from or related to the cause or source of the Hazardous Materials, or for contribution or indemnity as a result of site evaluation, remediation and clean-up costs and liability.

8.5. **The Kunihiro Group's Environmental Contingency.** The Closing of the Exchange pursuant to this Agreement is additionally contingent upon the Kunihiro Group receiving satisfactory evidence, in the form of an environmental assessment report, from a licensed contractor who is acceptable to the Kunihiro Group in its sole and absolute discretion and who shall be hired by the Kunihiro Group, showing that there is no evidence of

any Hazardous Materials in the soil or groundwater underlying the Agency Parcel, or any other conditions which may affect the value of the Agency Parcel. In the event the Kunihiro Group does not elect to obtain such an environmental assessment report, the Kunihiro Group is entitled to conduct such examination and testing as it or any other responsible governmental agency may require or request to determine the nature, source, scope, and extent of such Hazardous Materials. If a licensed contractor selected by the Kunihiro Group determines that there are Hazardous Materials in, on or under the Agency Parcel, including in the groundwater, in an amount which violates Applicable Laws, then the Kunihiro Group may elect to: (i) terminate this Agreement, or (ii) consummate the Exchange, with a payment to be made by Agency at a sum to be agreed upon by the parties. Regardless of which option is selected by the Kunihiro Group in the event Hazardous Materials are found in, on or under the Agency Parcel, neither party waives or relinquishes any common law or statutory rights it or they may have against one another or third persons arising from or related to the cause or source of the Hazardous Materials, or for contribution or indemnity as a result of site evaluation, remediation and clean-up costs and liability.

8.6. Definitions.

As used in this Agreement, the term "Hazardous Materials" shall mean any substance, material, or waste which is or becomes, prior to the closing date, regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "hazardous substances" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. §1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. (42 U.S.C. §6903) or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq. Agency shall be responsible for the removal of all Hazardous Materials which are in violation of Applicable Laws, if any, before Agency relinquishes actual possession of the Agency Parcel.

As used in this Agreement, "Applicable Laws" includes, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal,

Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environmental Quality Act, and the rules, regulations, and ordinances of the City within which the subject property is located, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus.

As used in this Agreement, to the best of a party's knowledge means the actual knowledge of the employees and officers of such party who are actually working on the transaction contemplated by this Agreement, and the documents in such parties' files, but does not require such party to undertake independent investigation.

9. Loss or Damage.

9.1. **The Agency Parcel.** Loss or damage to the Agency Parcel, by fire or other casualty, occurring prior to the Exchange, shall be at the risk of Agency. In the event that loss or damage to the Agency Parcel, by fire or other casualty, occurs prior to the Exchange, the Kunihiro Group may elect to require that the Agency pay to the Kunihiro Group the proceeds of any insurance which may become payable to Agency by reason thereof, or to permit such proceeds to be used for the restoration of the damage done.

9.2. **The Kunihiro Parcel.** Loss or damage to the Kunihiro Parcel, by fire or other casualty, occurring prior to the Exchange, shall be at the risk of the Kunihiro Group. In the event that loss or damage to the Kunihiro Parcel, by fire or other casualty, occurs prior to the Exchange, Agency may elect to require that the Kunihiro Group pay to Agency the proceeds of any insurance which may become payable to the Kunihiro Group by reason thereof, or to permit such proceeds to be used for the restoration of the damage done.

10. General Provisions.

10.1. **Brokers.** Each party represents and warrants to the other that it has not used any finder, broker or real estate agent in connection with this transaction, and agrees that it shall indemnify and hold the other harmless from and against all brokerage commissions or finder's fees and claims therefor, payable in connection with the Exchange and resulting from the acts or omissions of such indemnifying party.

10.2. **Relocation.** The Exchange as set forth in this Agreement has been determined based upon negotiations at arm's length and includes consideration for any and all amounts required to be paid to the Kunihiro Group for relocation assistance pursuant to the Relocation Assistance Act (Government Code Section 7260, et seq.) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601, et seq.), and any other applicable federal, state or local enactment, regulation or practices. The Kunihiro Group has been fully advised by counsel of its choosing and forever waives and disclaims any claim for relocation benefits or assistance or any compensation based upon loss of goodwill, severance damages, improvements pertaining to the realty, attorneys' fees, interest, court costs, or otherwise, and waives any right to receive an offer based on an appraisal, and agrees that the Agency's conveyance of the Agency Parcel shall be the sole payment and compensation to the Kunihiro Group for the Kunihiro Group's conveyance of the Kunihiro Parcel.

10.3. **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of Agency and the Kunihiro Group and their respective heirs, personal representatives, successors and assigns. Neither party shall assign any of its rights pursuant to this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld or delayed. In no event shall any assignment relieve the assigning party of any of its obligations under this Agreement.

10.4. **Attorneys' Fees.** In any action between the parties to interpret, enforce, award, modify, rescind, or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action shall be entitled, in addition to damages, injunctive relief, or any other relief to which it might be entitled to, reasonable costs and expenses including, without limitation, litigation costs and reasonable attorneys' fees.

10.5. **Approvals and Notices.** Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice. Any Notice given under this paragraph, whether personally or by mail, shall be deemed received only upon actual receipt by the intended party.

To the Kunihiro Group: Shirou and Satsuki Kunihiro, Trustees
P. O. Box 542
Loma Linda, CA 92354

To Agency: Loma Linda Redevelopment Agency
25541 Barton Road
Loma Linda, California 92354
Attention: Executive Director

10.6. **Jurisdiction and Venue.** This Agreement shall be construed under the laws of the State of California in effect at the time of the signing of this Agreement. The parties consent to the jurisdiction of the federal and California courts with venue in San Bernardino County.

10.7. **Titles and Captions.** Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

10.8. **Interpretation.** As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

10.9. **No Waiver.** A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

10.10. **Modifications.** Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

10.11. **Severability.** If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

10.12. **Offer.** Any delivery of unsigned copies of this Agreement is solely for the purpose of review by the party to whom delivered, and neither the delivery nor any prior communications between the parties, whether oral or written, shall in any way be construed as an offer by Agency, nor in any way imply that Agency is under any obligation to enter the transaction which is the subject of this Agreement. The signing of this Agreement by the Kunihiro Group constitutes an offer which shall not be deemed accepted by Agency unless and until Agency has signed this Agreement. The Kunihiro Group agrees that this offer shall be acceptable and cannot be revoked for a period of thirty (30) days. This is not a binding agreement until and unless executed on behalf of Agency after its approval by the Agency board.

10.13. **Computation of Time.** The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day Escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

10.14. **Legal Advice.** Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

10.15. **Time of Essence.** Time is expressly made of the essence with respect to the performance by Agency and the Kunihiro Group of each and every obligation and condition of this Agreement including, without limitation, the Closing.

10.16. **Cooperation.** Each party agrees to cooperate with the other in the Closing of this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

10.17. **Entire Agreement.** This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. Each party is entering this Agreement based solely upon the representations set forth herein and upon such party's own independent investigation of any and all facts such

party deems material. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.

10.18. **Counterparts.** This Agreement may be signed in three (3) multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

10.19. **Exhibits Incorporated by Reference.** All exhibits attached to this Agreement are incorporated in this Agreement by this reference. This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement includes five (5) exhibits including Exhibit "A," Legal Description of the Agency Parcel, Exhibit "B," Legal Description of the Kunihiro Parcel, Exhibit "C," Kunihiro Parcel Grant Deed, Exhibit "D," Agency Parcel Grant Deed, and Exhibit "E-1," and "E-2," FIRPTA Certificates.

[Signatures begin on the following page]

IN WITNESS WHEREOF, the Agency and the Kunihiro Group have signed this Agreement as of the date set forth above.

KUNIHIRA GROUP:

**THE SHIROU AND SATSUKI KUNIHIRA
REVOCABLE TRUST, EXECUTED MARCH 27,
1989**

By: _____
SHIROU KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihiro Revocable Trust,
executed March 27, 1989.

By: _____
SATSUKI KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihiro Revocable Trust,
executed March 27, 1989.

By: _____
TERRI TSUYAKO KUNIHIRA, a married woman

AGENCY:

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

By: _____
Pamela Byrnes-O'Camb, Agency Secretary

EXHIBIT "A"

LEGAL DESCRIPTION OF THE AGENCY PARCEL

LEGAL DESCRIPTION**PARCEL A**

That portion of Lot 1, Tract No. 12084, as per plat recorded in Book 201 of Maps, pages 75 and 76, situated in the City of Loma Linda, County of San Bernardino, State of California, records of said County and that portion of Lot 19, Block 56, RANCHO SAN BERNARDINO, as per plat recorded in Book 7 of Maps, page 2, records of said County, said portions described as a whole as follows:

BEGINNING at the northeast corner of said Lot 19, said corner being the intersection of the centerlines of Redlands Boulevard and Camelot Lane, as shown on said Tract No. 12084; thence South $89^{\circ}27'27''$ West 200.03 feet along said centerline of Redlands Boulevard to the centerline of Rhonda Street (formerly Rhondda Street) as per map of Tract No. 12475, recorded in Book 171 of Maps, pages 77-79; thence at right angles South $00^{\circ}32'33''$ East 140.00 feet to the beginning of a curve concave northeasterly, having a radius of 500.00 feet; thence southeasterly along said curve, through a central angle of $29^{\circ}22'40''$, a distance of 256.37 feet; thence South $29^{\circ}55'13''$ East 150.25 feet to the beginning of a curve concave southwesterly, having a radius of 500.00 feet; thence southeasterly along said curve, through a central angle of $29^{\circ}12'22''$, a distance of 254.87 feet to a point of cusp on the east line of said Lot 19 which bears $S00^{\circ}42'51''$ East 760.00 feet from said northeast corner of Lot 19; thence North $00^{\circ}42'51''$ West 760.00 feet along said east line to the POINT OF BEGINNING.

Contains 2.07 acres more or less.

PARCEL B - REDLANDS BOULEVARD

That portion of the north 2.00 feet of Lot 1, Tract No. 12084, as per plat recorded in Book 201 of Maps, pages 75 and 76, situated in the City of Loma Linda, County of San Bernardino, State of California, records of said County and that portion of Lot 19, Block 56, RANCHO SAN BERNARDINO, as per plat recorded in Book 7 of Maps, page 2, records of said County, said portions described as a whole as follows:

BEGINNING at the intersection of the south line of Redlands Boulevard (82.50 feet wide) as per plat recorded in Book 7 of Maps, page 2, records of said County, and the east line of said Lot 19; thence South $89^{\circ}27'27''$ West 59.91 feet along said south line to the east boundary of said Tract No. 12084; thence South $00^{\circ}32'33''$ East 8.75 feet along said boundary to the north line of said Lot 1; thence South $89^{\circ}27'27''$ West 140.23 feet along said north line to the southerly prolongation of the centerline of Rhonda Street (formerly Rhondda Street) as per plat of Tract No. 12475, recorded in Book 171 of Maps, pages 77-79, records of said County; thence South $00^{\circ}32'33''$ East 2.00 feet along said prolongation to a line parallel and distant 52.00 feet southerly of the centerline of said Redlands Boulevard; thence North $89^{\circ}27'27''$ East 200.18 feet along said parallel line to the east line of said Lot 19; thence North $00^{\circ}42'51''$ West 10.75 feet along said east line to the POINT OF BEGINNING.

Contains 0.021 acres more or less.

PARCEL C - RHONDA STREET

That portion of Lot 1, Tract No. 12084, as per plat recorded in Book 201 of Maps, pages 75 and 76, situated in the City of Loma Linda, County of San Bernardino, State of California, records of said County and that portion of Lot 19, Block 56, RANCHO SAN BERNARDINO, as per plat recorded in Book 7 of Maps, page 2, records of said County, said portions described as a whole as follows:

COMMENCING at the northeast corner of said Lot 19, said corner being the intersection of the centerlines of Redlands Boulevard and Camelot Lane, as shown on map of Tract No. 12084, recorded in Book 201 of Maps, pages 75 and 75, records of said County; thence South $89^{\circ}27'27''$ West 200.03 feet along said centerline of Redlands Boulevard to the centerline of Rhonda Street (formerly Rhondda Street) as per map of Tract No. 12475, recorded in Book 171 of Maps, pages 77-79; thence at right angles South $00^{\circ}32'33''$ East 52.00 feet to the POINT OF BEGINNING; thence continuing South $00^{\circ}32'33''$ East 88.00 feet to the beginning of a curve concave northeasterly, having a radius of 500.00 feet; thence southeasterly along said curve, through a central angle of $29^{\circ}22'40''$, a distance of 256.37 feet; thence South $29^{\circ}55'13''$ East 150.25 feet to the beginning of a curve concave southwesterly, having a radius of 500.00 feet; thence southeasterly along said curve, through a central angle of $29^{\circ}12'22''$, a distance of 254.87 feet to a point of cusp on the east line of said Lot 19 which bears $S00^{\circ}42'51''$ East 760.00 feet from said northeast corner of Lot 19; thence North $00^{\circ}42'51''$ West 181.73 feet to the beginning of a non-tangent curve, concave southwesterly, having a radius of 532.00 feet, a radial line to said point bears North $69^{\circ}18'44''$ East; thence northwesterly, along said curve, through a central angle of $09^{\circ}13'57''$, a distance of 85.73 feet; thence North $29^{\circ}55'13''$ West 150.25 feet to the beginning of a curve concave northeasterly, having a radius of 468.00 feet; thence northwesterly along said curve, through a central angle of $29^{\circ}22'40''$, a distance of 239.96 feet; thence North $00^{\circ}32'33''$ West 66.00 feet to the beginning of a curve concave southeasterly, having a radius of 22.00 feet; thence northeasterly along said curve, through a central angle of $90^{\circ}00'00''$ a distance of 34.56 feet to a line parallel and distant 52.00 feet southerly of the centerline of said Redlands Boulevard; thence South $89^{\circ}27'27''$ West 54.00 feet to the POINT OF BEGINNING.

Contains 0.463 acres more or less

See page 3 for a plat depicting Parcel A, Parcel B and Parcel C described above.

This real property has been described by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Larry David Gill JAN. 27, 2004

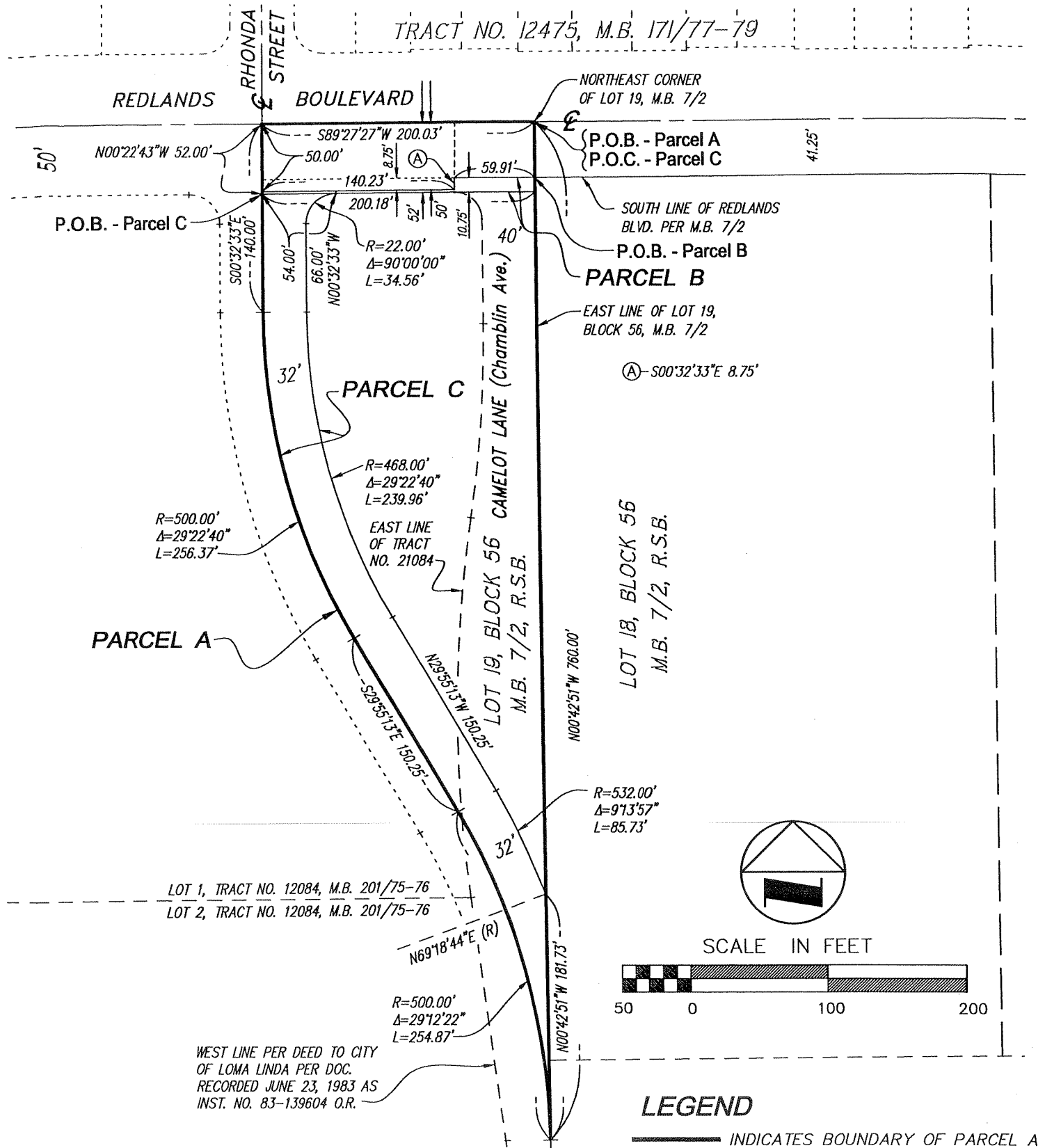
LARRY DAVID GILL, P.L.S. 7814
Expires 12/31/05

DATE



EXHIBIT "A"

TRACT NO. 12475, M.B. 171/77-79



DATE=01/27/04 Path_dg// J:\98011\TM\LEGALS\LRDA_LEGAL_EXH_A_RHONDA.dwg

PREPARED BY:

Associated Engineers

3311 E. SHELBY STREET • ONTARIO, CALIFORNIA 91764

TEL: (909) 980-1982 • FAX: (909) 941-0891

PARCEL A - DEED
PARCELS B & C - RESERVATIONS

PREPARED FOR:

City of Loma Linda

EXHIBIT "B"

LEGAL DESCRIPTION OF THE KUNIHIRA PARCEL

Real property in the City of Loma Linda, County of San Bernardino, State of California, described as follows:

THE SOUTH 1 ACRE OF THE NORTH 11 ACRES OF THE WEST OF 20 ACRES OF THE SOUTH ½ OF LOT 14, BLOCK 75, OF THE EIGHTY ACRES SURVEY OF THE RANCHO SAN BERNARDINO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 2, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE EAST 20 FEET THEREOF, AS RECITED IN THE DEED RECORDED JUNE 11, 1954, IN BOOK 3401, PAGE 89, OF OFFICIAL RECORDS.

APN: 0283-121-06-0-000

EXHIBIT "C"

KUNIHIRA PARCEL GRANT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Stradling Yocca Carlson & Rauth
660 Newport Center Drive
Suite 1600
Newport Beach, California 92660
Attn: Mark J. Huebsch, Esq.

APN: 0283-121-06-0-000

[Space above for recorder]

DOCUMENTARY TRANSFER TAX \$ NONE
Exempt from payment pursuant to Revenue and
Taxation Code Section 11922.

Exempt from recording fee and documentary
transfer tax pursuant to Government Code Section
27283.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **SHIROU KUNIHIRA** and **SATSUKI KUNIHIRA**, as Trustees of that certain Revocable Declaration of Trust, known as The Shirou and Satsuki Kunihiro Revocable Trust, executed March 27, 1989; and **TERRI TSUYAKO KUNIHIRA**, a married woman (collectively, "Kunihiro Group") (collectively, "Grantors"), hereby grant to the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body corporate and politic, that certain real property located in the County of San Bernardino, State of California, more particularly described on Attachment No. 1 attached hereto and incorporated herein by this reference.

[Signatures begin on the following page]

IN WITNESS WHEREOF, Grantors have executed this Grant Deed as of _____, 2004.

GRANTORS:

**THE SHIROU AND SATSUKI KUNIHIRA
REVOCABLE TRUST, EXECUTED MARCH
27, 1989**

By: _____
SHIROU KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihiro Revocable Trust,
executed March 27, 1989.

By: _____
SATSUKI KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihiro Revocable Trust,
executed March 27, 1989.

By: _____
TERRI TSUYAKO KUNIHIRA, a married woman

ATTACHMENT NO. 1 TO EXHIBIT "C"

LEGAL DESCRIPTION

Real property in the City of Loma Linda, County of San Bernardino, State of California, described as follows:

THE SOUTH 1 ACRE OF THE NORTH 11 ACRES OF THE WEST OF 20 ACRES OF THE SOUTH ½ OF LOT 14, BLOCK 75, OF THE EIGHTY ACRES SURVEY OF THE RANCHO SAN BERNARDINO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 2, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE EAST 20 FEET THEREOF, AS RECITED IN THE DEED RECORDED JUNE 11, 1954, IN BOOK 3401, PAGE 89, OF OFFICIAL RECORDS.

APN: 0283-121-06-0000

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)

) ss.

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____,

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title Or Type Of Document

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

Number Of Pages

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Date Of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

ATTACHMENT NO. 2

**to
EXHIBIT "C"**

CERTIFICATE OF ACCEPTANCE

This is to certify that the fee interest in real property conveyed under the foregoing Grant Deed by SHIROU KUNIHIRA and SATSUKI KUNIHIRA, as Trustees of that certain Revocable Declaration of Trust, known as THE SHIROU AND SATSUKI KUNIHIRA REVOCABLE TRUST, executed March 27, 1989; and TERRI TSUYAKO KUNIHIRA, a married woman (collectively, the "Kunihira Group") as to the following property:

Real property in the City of Loma Linda, County of San Bernardino, State of California, described as follows:

THE SOUTH 1 ACRE OF THE NORTH 11 ACRES OF THE WEST OF 20 ACRES OF THE SOUTH ½ OF LOT 14, BLOCK 75, OF THE EIGHTY ACRES SURVEY OF THE RANCHO SAN BERNARDINO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 2, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE EAST 20 FEET THEREOF, AS RECITED IN THE DEED RECORDED JUNE 11, 1954, IN BOOK 3401, PAGE 89, OF OFFICIAL RECORDS.

APN: 0283-121-06-0000

is hereby accepted by the Executive Director of the LOMA LINDA REDEVELOPMENT AGENCY on behalf of the Agency Board pursuant to authority conferred by Resolution No. _____ of said Agency Board adopted on March 9, 2004, and the Grantee consents to recordation thereof by its duly authorized officer.

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: _____

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary

EXHIBIT "D"

AGENCY PARCEL GRANT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Stradling Yocca Carlson & Rauth
660 Newport Center Drive
Suite 1600
Newport Beach, California 92660
Attn: Mark J. Huebsch, Esq.

APN: _____

[Space above for recorder.]

DOCUMENTARY TRANSFER TAX \$ NONE
Exempt from payment pursuant to Revenue and
Taxation Code Section 11922.

Exempt from recording fee and documentary transfer
tax pursuant to Government Code Section 27283.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body corporate and politic, ("Grantor"), hereby grants to **SHIROU KUNIHIRA and SATSUKI KUNIHIRA**, as Trustees of that certain Revocable Declaration of Trust, known as **The Shirou and Satsuki Kunihiro Revocable Trust**, executed **March 27, 1989**; and **TERRI TSUYAKO KUNIHIRA**, a married woman (collectively, "Kunihiro Group") (collectively, "Grantees") that certain real property located in the County of San Bernardino, State of California, more particularly described on Attachment No. 1 attached hereto and incorporated herein by this reference.

[Signatures begin on the following page]

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of
_____, 2004.

GRANTOR:

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary

ATTACHMENT NO. 1 TO EXHIBIT "D"

LEGAL DESCRIPTION
[Agency Parcel]

[To Come]

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____,

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
☐ General

Number Of Pages

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Date Of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

EXHIBIT "E-1"

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

To inform SHIROU KUNIHIRA and SATSUKI KUNIHIRA, as Trustees of that certain Revocable Declaration of Trust, known as The Shirou and Satsuki Kunihiro Revocable Trust, executed March 27, 1989; and TERRI TSUYAKO KUNIHIRA, a married woman (collectively, "Kunihiro Group") that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code"), will not be required upon the transfer of certain real property to the Transferee by the Loma Linda Redevelopment Agency, a public body, corporate and politic (the "Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number is _____;
and
3. The Transferor's office address is _____.

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service and Franchise Tax Board by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

TRANSFEROR:

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: _____

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary

EXHIBIT "E-2"

TRANSFEROR'S CERTIFICATION OF NON FOREIGN STATUS

To inform the Loma Linda Redevelopment Agency that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code"), will not be required upon the transfer of certain real property to the Transferee by SHIROU KUNIHIRA and SATSUKI KUNIHIRA, as Trustees of that certain Revocable Declaration of Trust, known as The Shirou and Satsuki Kunihiro Revocable Trust, executed March 27, 1989; and TERRI TSUYAKO KUNIHIRA, a married woman (the "Transferors"), each of the undersigned hereby certify the following on behalf of the Transferors:

1. The Transferors, and each of (i) SHIROU KUNIHIRA and SATSUKI KUNIHIRA, as Trustees of that certain Revocable Declaration of Trust, known as The Shirou and Satsuki Kunihiro Revocable Trust, executed March 27, 1989; and (ii) TERRI TSUYAKO KUNIHIRA, a married woman, are not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The U.S. employer identification number of Shirou Kunihiro is _____;
3. The U.S. employer identification number of Satsuki Kunihiro is _____;
4. The U.S. employer identification number of Terri Tsuyako Kunihiro is _____; and
5. The office address for Transferors is _____.

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service and Franchise Tax Board by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

[Signatures begin on the following page]

TRANSFEROR:

**THE SHIROU AND SATSUKI KUNIHIRA
REVOCABLE TRUST, EXECUTED MARCH
27, 1989**

Dated _____

By: _____
SHIROU KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihira Revocable Trust,
executed March 27, 1989.

Dated _____

By: _____
SATSUKI KUNIHIRA, Trustee of that certain
Revocable Declaration of Trust, known as The
Shirou and Satsuki Kunihira Revocable Trust,
executed March 27, 1989.

Dated _____

By: _____
TERRI TSUYAKO KUNIHIRA, a married woman

RESOLUTION NO.219

A RESOLUTION OF THE LOMA LINDA REDEVELOPMENT AGENCY
APPROVING AND AUTHORIZING THE EXECUTION OF AN
AGREEMENT FOR THE EXCHANGE OF PROPERTY WITH KUNIHIRA

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan (the "Redevelopment Plan") for the Loma Linda Redevelopment Project (the "Redevelopment Project") and the merged redevelopment project area ("Project Area") established thereby; and

WHEREAS, in order to carry out and implement such Redevelopment Plan the Agency proposes to enter into that certain *Agreement for the Exchange of Property and Joint Escrow Instructions substantially in the form submitted herewith (the "Agreement") with Kunihiro (collectively, "The Kunihiro Group") under which: (i) The Kunihiro Group will convey certain property located at 10806 Poplar Street, APN 0283-121-06-6-000, and more particularly identified in the Agreement as the "Kunihiro Parcel" to the Agency, and (ii) the Agency will convey certain property identified in the Agreement as the "Agency Parcel" to The Kunihiro Group, all as more particularly set forth in the Agreement; and

WHEREAS, the Agency has determined that the implementation of the Redevelopment Plan will be facilitated by exchanging the Agency Parcel for the Kunihiro Parcel; and

WHEREAS, the Agency has determined that the value of the Agency Parcel is equivalent to the value of the Kunihiro Parcel; and

WHEREAS, the Agency has duly considered the terms and conditions of the Agreement, and desires to approve the Agreement and authorize the exchange of the Agency Parcel for the Kunihiro Parcel under the terms of such Agreement; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the Agency has duly considered all of the terms and conditions of the proposed Agreement and believes that the Agreement and its implementation are in the best interests of the Agency as well as the City of Loma Linda and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED by the Loma Linda Redevelopment Agency as follows:

1. The Agency hereby approves the Agreement and authorizes and directs the Executive Director of the Agency to execute the Agreement on behalf of the Agency, to execute a grant deed conveying the Agency Parcel to The Kunihiro Group (or the designee thereof) and to execute a deed acceptance in connection with the conveyance of the Kunihiro Parcel by The Kunihiro Group to the Agency.

2. The Agency additionally authorizes the Executive Director to take such actions as are necessary or convenient to comply with any applicable relocation requirements or enactments. The Executive Director of the Agency, or his designee, is authorized to implement the Agreement and take all further actions and execute all escrow documents and other documents which are necessary or appropriate to carry out the Agreement.

3. The Agency authorizes and approves the payment of such moneys as are payable by the Agency under the Agreement.

4. The Agency Secretary shall certify to the adoption of this Resolution.

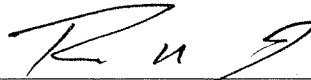
PASSED, APPROVED, AND ADOPTED this 9th day of March 2004 by the following vote:

Ayes: Ziprick, Brauer, Petersen, Hansberger

Noes: None

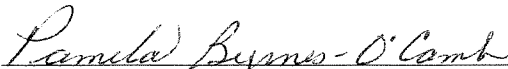
Abstain: None

Absent: Christman



Robert Ziprick, Chairman

ATTEST:



Pamela Byrnes-O'Comb, Secretary